

# Senate File 378 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO SSB 1212)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to identity theft protection by requiring  
2 reporting and by making changes to the duties of county  
3 recorders, the fees collected by the county recorders, and the  
4 county land record information system.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1556SV 83  
7 md/sc/5

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1 1 Section 1. Section 331.601A, Code 2009, is amended by  
1 2 adding the following new subsections:  
1 3 NEW SUBSECTION. 0A. "Batch basis" means the delivery of  
1 4 an accumulation of electronic documents or records recorded or  
1 5 maintained by the county recorder.  
1 6 NEW SUBSECTION. 1A. "Electronic document" means a  
1 7 document or instrument that is received, processed,  
1 8 disseminated, or maintained in an electronic format. The  
1 9 submission of an electronic document through the county land  
1 10 record information system electronic submission service shall  
1 11 be equivalent to delivery of a document through the United  
1 12 States postal service or by personal delivery at designated  
1 13 offices in each county. Persons who submit electronic  
1 14 documents for recording are responsible for ensuring that the  
1 15 electronic documents comply with all requirements for  
1 16 recording.  
1 17 Sec. 2. Section 331.603, Code 2009, is amended by adding  
1 18 the following new subsection:  
1 19 NEW SUBSECTION. 5. a. The governing board of the county  
1 20 land record information system shall not enter into an  
1 21 agreement to provide access to electronic documents or records  
1 22 on a batch basis. The county recorder may collect reasonable  
1 23 fees for access to electronic documents and records pursuant  
1 24 to an agreement. The fees shall not exceed the actual cost of  
1 25 providing access to the electronic documents and records.  
1 26 "Actual cost" means only those expenses directly attributable  
1 27 to providing access to electronic documents and records.  
1 28 "Actual cost" shall not include costs such as employment  
1 29 benefits, depreciation, maintenance, electricity, or insurance  
1 30 associated with the administration of the office of the county  
1 31 recorder or the county land record information system.  
1 32 b. Electronic documents and records made available under  
1 33 this subsection shall not include personally identifiable  
1 34 information and shall be subjected to a redaction process  
1 35 prior to the transfer of the electronic documents or records  
2 1 to another person pursuant to an agreement under paragraph  
2 2 "a".  
2 3 Sec. 3. Section 331.605B, subsection 2, Code 2009, is  
2 4 amended to read as follows:  
2 5 2. A recorder or the governing board of the county land  
2 6 record information system shall collect only statutorily  
2 7 authorized fees for land records management. A recorder or  
2 8 the governing board of the county land record information  
2 9 system shall not collect a fee for viewing, accessing, or  
2 10 printing documents in the county land record information  
2 11 system unless specifically authorized by statute. However, a  
2 12 recorder or the governing board of the county land record  
2 13 information system may collect actual third-party fees

2 14 associated with accepting and processing statutorily  
2 15 authorized fees, including credit card fees, treasury  
2 16 management fees, and other transaction fees required to enable  
2 17 electronic payment. For the purposes of this subsection, the  
2 18 term "third-party" does not include the county land record  
2 19 information system, the Iowa state association of counties, or  
2 20 any of the association's affiliates.

2 21 Sec. 4. Section 331.605C, Code 2009, is amended to read as  
2 22 follows:

2 23 331.605C ELECTRONIC TRANSACTION FEE == AUDIT.

~~2 24 1. For the fiscal year beginning July 1, 2003, and ending  
2 25 June 30, 2004, the recorder shall collect a fee of five  
2 26 dollars for each recorded transaction, regardless of the  
2 27 number of pages, for which a fee is paid pursuant to section  
2 28 331.604 to be used for the purposes of planning and  
2 29 implementing electronic recording and electronic transactions  
2 30 in each county and developing county and statewide internet  
2 31 websites to provide electronic access to records and  
2 32 information. Each county shall participate in the county land  
2 33 record information system and shall comply with the policies  
2 34 and procedures established by the governing board of the  
2 35 county land record information system.~~

3 1 2. a. Beginning For the period beginning July 1, 2004,  
3 2 and ending June 30, 2009, the recorder shall collect a fee of  
3 3 one dollar for each recorded transaction, regardless of the  
3 4 number of pages, for which a fee is paid pursuant to section  
3 5 331.604 to be used for the purpose set forth in subsection 4.

3 6 b. For the period beginning July 1, 2009, and ending June  
3 7 30, 2011, the recorder shall collect a fee of three dollars  
3 8 for each recorded transaction, regardless of the number of  
3 9 pages, for which a fee is paid pursuant to section 331.604 to  
3 10 be used for the following purposes:

3 11 (1) Maintaining the statewide internet website and the  
3 12 county land record information system.

3 13 (2) Integrating information contained in documents and  
3 14 records maintained by the recorder and other land record  
3 15 information from other sources with the county land record  
3 16 information system.

3 17 (3) Implementing and maintaining a process for redacting  
3 18 personally identifiable information contained in electronic  
3 19 documents that are displayed for public access through an  
3 20 internet website or that are transferred to another person.

3 21 c. Beginning July 1, 2011, the recorder shall collect a  
3 22 fee of two dollars for each recorded transaction, regardless  
3 23 of the number of pages, for which a fee is paid pursuant to  
3 24 section 331.604 to be used for the purposes in paragraph "b"  
3 25 and for the following purposes:

3 26 (1) Establishing and implementing standards for recording,  
3 27 processing, and archiving electronic documents and records.

3 28 (2) Expanding access to records by encouraging electronic  
3 29 indexing and scanning of documents and instruments recorded in  
3 30 prior years.

3 31 d. Notwithstanding paragraphs "b" and "c", the fee  
3 32 collected by the recorder under this section for recording a  
3 33 plat of survey is one dollar, regardless of the number of  
3 34 pages. For purposes of this paragraph, "plat of survey" means  
3 35 the same as defined in section 355.1, subsection 9.

4 1 e. Fees collected in excess of the amount needed for the  
4 2 purposes specified in this section shall be used by the county  
4 3 land record information system to reduce or eliminate service  
4 4 fees for electronic submission of documents and instruments.

4 5 3. The county treasurer, on behalf of the recorder, shall  
4 6 establish and maintain a county recorder's electronic  
4 7 transaction fund into which all moneys collected pursuant to  
4 8 ~~subsections 1 and subsection 2~~ shall be deposited. Interest  
4 9 earned on moneys deposited in this fund shall be computed  
4 10 based on the average monthly balance in the fund and shall be  
4 11 credited to the county recorder's electronic transaction fund.

4 12 4. The local government electronic transaction fund is  
4 13 established in the office of the treasurer of state under the  
4 14 control of the treasurer of state. Moneys deposited into the  
4 15 fund are not subject to section 8.33. Notwithstanding section  
4 16 12C.7, interest or earnings on moneys in the local government  
4 17 electronic transaction fund shall be credited to the fund.  
4 18 Moneys in the local government electronic transaction fund are  
4 19 not subject to transfer, appropriation, or reversion to any  
4 20 other fund, or any other use except as provided in this  
4 21 subsection. On a monthly basis, the county treasurer shall  
4 22 pay ~~each fee collected pursuant to subsection 2~~ the fees  
4 23 deposited in the county recorder's electronic transaction fund  
4 24 to the treasurer of state for deposit into the local

4 25 government electronic transaction fund. Moneys credited to  
4 26 the local government electronic transaction fund are  
4 27 appropriated to the treasurer of state to be used for the  
4 28 purpose of paying the ongoing costs of integrating and  
4 29 maintaining the statewide internet website ~~developed and~~  
~~4 30 implemented under subsection 1 to provide electronic access to~~  
4 31 ~~records and information.~~

4 32 5. The recorder shall make available any information  
4 33 required by the county auditor or auditor of state concerning  
4 34 the fees collected under this section for the purposes of  
4 35 determining the amount of fees collected and the uses for  
5 1 which such fees are expended.

5 2 Sec. 5. Section 331.606, Code 2009, is amended by adding  
5 3 the following new subsection:

5 4 NEW SUBSECTION. 4. The recorder shall permanently archive  
5 5 an unaltered version of each recorded document or instrument.  
5 6 A document or instrument may be archived in its original  
5 7 format, as an electronic document, or in another format  
5 8 suitable for preserving information in the document or  
5 9 instrument. A person may view and copy an original or  
5 10 unaltered document or instrument in the office of the  
5 11 recorder.

5 12 Sec. 6. Section 331.606A, subsection 1, paragraph c, Code  
5 13 2009, is amended to read as follows:

5 14 c. "Redact" or "redaction" means the process of  
5 15 permanently removing all or a portion of personally  
5 16 identifiable information from documents.

5 17 Sec. 7. Section 331.606A, subsection 2, Code 2009, is  
5 18 amended to read as follows:

5 19 2. INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION. The  
5 20 preparer of a document shall not include an individual's  
5 21 personally identifiable information in a document that is  
5 22 prepared and presented for recording in the office of the  
5 23 recorder. This subsection shall not apply to documents that  
5 24 were executed by an individual prior to July 1, 2007. ~~Unless~~  
~~5 25 provided otherwise by law, all documents described by this~~  
~~5 26 section are subject to inspection and copying by the public.~~

5 27 Sec. 8. Section 331.606A, subsection 3, Code 2009, is  
5 28 amended by striking the subsection and inserting in lieu  
5 29 thereof the following:

5 30 3. REDACTION FROM ELECTRONIC DOCUMENTS. Personally  
5 31 identifiable information that is contained in electronic  
5 32 documents that are displayed for public access on a website,  
5 33 or which are transferred to any person, shall be redacted  
5 34 prior to displaying or transferring the documents. Each  
5 35 recorder that displays electronic documents and the county  
6 1 land record information system that displays electronic  
6 2 documents on behalf of a county shall implement a system for  
6 3 redacting personally identifiable information. The recorder  
6 4 and the governing board of the county land record information  
6 5 system shall establish a procedure by which individuals may  
6 6 request that personally identifiable information contained in  
6 7 an electronic document displayed on a website be redacted, at  
6 8 no fee to the requesting individual. The requirements of this  
6 9 subsection shall be fully implemented not later than December  
6 10 31, 2011.

6 11 Sec. 9. Section 331.606A, subsection 5, Code 2009, is  
6 12 amended to read as follows:

6 13 5. APPLICABILITY.

6 14 a. ~~This section~~ Subsection 2 shall not apply to a preparer  
6 15 of a state or federal tax lien or release, a military  
6 16 separation or discharge record, or a death certificate that is  
6 17 prepared for recording in the office of county recorder.

6 18 b. Subsection 3 shall not apply to a military separation  
~~6 19 or discharge record, a birth record, a death certificate, or~~  
~~6 20 marriage certificate unless such record or certificate is~~  
~~6 21 incorporated within another document or instrument that is~~  
~~6 22 recorded and displayed for public access on a website.~~

6 23 c. If a military separation or discharge record or a death  
6 24 certificate is recorded in the office of the county recorder,  
6 25 the military separation or discharge record or the death  
6 26 certificate shall not be ~~accessible through the internet~~  
~~6 27 displayed for public access on an internet website, public~~  
~~6 28 access terminal or other medium, or be transferred to any~~  
~~6 29 person.~~

6 30 Sec. 10. Section 331.606A, Code 2009, is amended by adding  
6 31 the following new subsection:

6 32 NEW SUBSECTION. 6. LIMITATION OF LIABILITY. The county  
6 33 land record information system is a unit of local government  
6 34 for purposes of chapter 670, relating to tort liability of  
6 35 governmental subdivisions.

7 1 Sec. 11. Section 331.606B, subsection 1, Code 2009, is  
7 2 amended by adding the following new paragraph:  
7 3 NEW PARAGRAPH. g. Each document or instrument presented  
7 4 for recording shall meet the requirements of section 331.606A,  
7 5 subsection 2.

7 6 Sec. 12. REPORT TO THE GENERAL ASSEMBLY. On or before  
7 7 January 1, 2012, the governing board of the county land record  
7 8 information system shall submit a report to the general  
7 9 assembly. The report shall include a summary of the actions  
7 10 taken by the county recorders and the county land record  
7 11 information system relating to the redaction of personally  
7 12 identifiable information, a detailed financial accounting of  
7 13 the county land record information system, a detailed summary  
7 14 of expenditures made from the local government electronic  
7 15 transaction fund, and an analysis and recommendation regarding  
7 16 the continuance or discontinuance of the fee collected under  
7 17 section 331.605C, subsection 2.

7 18 Sec. 13. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
7 19 3, shall not apply to this Act.

7 20 EXPLANATION

7 21 This bill relates to the duties and authority of county  
7 22 recorders and the county land record information system.

7 23 The bill requires each county to participate in the county  
7 24 land record information system and comply with the policies  
7 25 and procedures established by the governing board of the  
7 26 county land record information system.

7 27 The bill increases the electronic transaction fee from \$1  
7 28 per recorded transaction to \$3 for transactions recorded  
7 29 between July 1, 2009, and June 30, 2011. The bill also  
7 30 provides that the electronic transaction fee for transactions  
7 31 recorded on or after July 1, 2011, is \$2. However, the bill  
7 32 provides that the electronic transaction fee for recording a  
7 33 plat of survey shall continue to be \$1. The bill specifies  
7 34 the purposes for which electronic transaction fees may be used  
7 35 and provides that fees collected in excess of the amount  
8 1 needed shall be used by the county land record information  
8 2 system to reduce or eliminate service fees for electronic  
8 3 submission services.

8 4 The bill prohibits the governing board of the county land  
8 5 record information system from entering into an agreement to  
8 6 provide access to electronic documents or records on a batch  
8 7 basis, as defined in the bill. The bill authorizes a county  
8 8 recorder to provide access to electronic documents and records  
8 9 pursuant to an agreement and to collect fees for such access.  
8 10 Fees collected pursuant to such an agreement must be  
8 11 reasonable and shall not exceed the actual cost of providing  
8 12 access to the electronic documents and records.

8 13 The bill amends the definition of "redact" or "redaction"  
8 14 to mean the process of permanently removing all or a portion  
8 15 of personally identifiable information from documents and  
8 16 requires that personally identifiable information contained in  
8 17 electronic documents that are displayed for public access on a  
8 18 website, or which are transferred to any person, be redacted  
8 19 prior to displaying or transferring the documents.

8 20 The bill also requires each county recorder that displays  
8 21 electronic documents and the county land record information  
8 22 system that displays electronic documents on behalf of a  
8 23 county to implement a system for redacting personally  
8 24 identifiable information and to establish a procedure by which  
8 25 individuals may request that personally identifiable  
8 26 information contained in an electronic document displayed on a  
8 27 website be redacted, at no fee to the requesting individual.  
8 28 The bill requires procedures for redaction to be fully  
8 29 implemented by December 31, 2011. The bill excludes certain  
8 30 recorded documents and certificates from the prohibition on  
8 31 inclusion of personally identifiable information and the  
8 32 requirements for redaction of such information.

8 33 The bill provides that a county recorder shall refuse any  
8 34 document or instrument presented for recording that contains  
8 35 personally identifiable information, unless the person pays an  
9 1 additional recording fee of \$10 per document or instrument.

9 2 The bill requires a county recorder to permanently archive  
9 3 an unaltered version of each recorded document or instrument  
9 4 and provides that such documents and instruments may be viewed  
9 5 or copied in the office of the recorder.

9 6 The bill designates the county land record information  
9 7 system as a unit of local government for purposes of Code  
9 8 chapter 670, relating to tort liability of governmental  
9 9 subdivisions.

9 10 The bill requires the governing board of the county land  
9 11 record information system to submit a report to the general

9 12 assembly on or before January 1, 2012. The report is required  
9 13 to include information related to redaction efforts, a  
9 14 financial accounting of the county land record information  
9 15 system, a summary of expenditures from the local government  
9 16 electronic transaction fund, and an analysis and  
9 17 recommendation regarding the continuance or discontinuance of  
9 18 the electronic transaction fee collected under Code section  
9 19 331.605C.

9 20 The bill may include a state mandate as defined in Code  
9 21 section 25B.3. The bill makes inapplicable Code section  
9 22 25B.2, subsection 3, which would relieve a political  
9 23 subdivision from complying with a state mandate if funding for  
9 24 the cost of the state mandate is not provided or specified.  
9 25 Therefore, political subdivisions are required to comply with  
9 26 any state mandate included in the bill.

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